

REMARKS

Claims 1-24 are pending of which claims 1-18 are rejected and claims 19-24 are withdrawn from consideration. Claims 1, 7, 14 and 16 are independent.

Affirmation of Applicants' provisional election of subcombination I, claims 1-18 is required.

Claim 7 is objected to because of an informality.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (U.S. Patent No. 6,016,141, hereinafter Knudson) in view of Brown (U.S. Patent No. 5,771,435, hereinafter Brown).

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Brown and Goode et al. (International Pub. No. 98/19459, hereinafter Goode).

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Goode.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted

that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Election/Restrictions

Applicants confirm the provisional election without traverse to prosecute the invention of subcombination I, claims 1-18, drawn to a user-requested video program method and apparatus used to provide subscription-on-demand services for an interactive information distribution system by permitting the user to subscribe to a group of programs, classified in class 725, subclass 86.

Applicants reserve the right to subsequently file a divisional application in order to prosecute the invention recited in the non-elected group of claims.

Claim Objections

Claim 7 is objected to because of an informality. Claim 7 is amended to cure the ambiguity indicated by the Examiner. Therefore, the objection should be withdrawn.

Rejection Under 35 U.S.C. 103(a)

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to

supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in KSR Int'l Co. v. Teleflex, Inc., 126 S. Ct. 2965 (2006); see also MPEP §2141.

Claims 1-6

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Brown. The rejection is traversed.

Knudson and Brown, alone or in combination, fail to teach or suggest amended independent claim 1 as a whole.

In general, Knudson discloses communications paths preferably have sufficient bandwidth to allow television distribution facility to distribute scheduled television programming, and other video information to user equipment in addition to program data. If desired, program data may be distributed by one or more distribution facilities that are similar to but separate from television distribution facility using different or separate communications paths. Certain functions such as pay program purchasing may require user equipment to transmit data to distribution facility over available communications paths. If desired, such data may be transmitted over telephone lines or other separate communications paths. See col. 3, lines 45-57.

Knudson, however, fails to teach or suggest at least the limitation of "by allowing the subscriber to interface with one or more menu applets," as claimed in Applicants' claim 1.

Furthermore, Brown fails to bridge the substantial gap between Knudson and Applicants' invention of claim 1. Brown is devoid of any teaching or suggestion of the aforementioned limitation as recited in claim 1. Therefore, Applicants respectfully submit that amended claim 1 is allowable over Knudson in view of Brown under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Knudson in view of Brown under 35 U.S.C. 103.

As such, Applicants respectfully submit that claims 1-6 are allowable over Knudson in view of Brown under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

Claims 7-13

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Brown and Goode. The rejection is traversed.

Knudson, Brown and Goode, alone or in combination, fail to teach or suggest independent claim 7 as a whole.

As discussed above, in general, Knudson discloses a system that allows a user to select a pay program for purchase from a program guide. The program guide determines whether the selected program is part of a package of pay programs. If the selected program is part of a package, information regarding the package is provided to the user so that the user may decide whether to purchase the package. See Abstract.

Knudson, however, fails to teach or suggest at least the limitations of “sending from said service provider equipment to said subscriber equipment a first menu applet; decoding and executing said first menu applet within said subscriber equipment to display a first interactive graphical user interface,” (emphasis added). The Examiner cites Fig. 7 and col. 3, lines 45-62 for teaching a menu applet. The passages are reproduced below for ease of comparison with the inventive feature of the claim.

communications paths 30 preferably have sufficient bandwidth to allow television distribution facility 26 to distribute scheduled television programming, pay programming and other video information to user equipment 32 in addition to program data. If desired, program data may be distributed by one or more distribution facilities that are similar to but separate from television distribution facility 26 using communications paths that are separate from communications paths 30. Certain functions such as pay program purchasing may require user equipment 32 to transmit data to distribution facility 26 over available communications paths 30. If desired, such data may be transmitted over telephone lines or other separate communications paths (not shown). If functions such as these are provided using facilities separate from television distribution facility 26, some of the communications with user equipment 32 may be made directly to the separate facilities. col. 3, lines 45-62.

For example, if the selected program is a women's 400m butterfly swimming event and that program is part of the Olympic swimming package, an informative message such as message 100 of FIG. 7 may be displayed on television 38. **Message 100 contains the package title 102, package price 104, package description 106 and may include a list of the events 108 that make up the package. col. 7, lines 8-14.** (emphasis added).

As can be seen, FIG. 7 refers to a message window containing information for the user to select whereas an applet as defined in Wikipedia is a software component that runs in the context of another program, for example a web browser. It is important to note that an applet is distinguished from subroutine by several features. See Wikipedia. Brown is devoid of any teaching or suggestion of a menu applet as claimed in Applicants' claim 7.

Goode fails to bridge the substantial gap between Applicants' invention of claim 7 and Knudson and Brown.

Goode discloses a personal identification number (PIN) assignment routine for assigning various types of PINs to various customers of the information distribution system. See Abstract.

Goode is devoid of any teaching or suggestion of Applicants' aforementioned claimed limitations.

Therefore, Applicants respectfully submit that claim 7 is allowable over Knudson in view of Brown and Goode under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Knudson in view of Brown and Goode under 35 U.S.C. 103.

As such, Applicants respectfully submit that claims 7-13 are allowable over Knudson in view of Brown and Goode under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

Claims 14-18

Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson in view of Goode. The rejection is traversed.

Knudson and Goode, alone or in combination, fail to teach or suggest independent claim 14 as a whole.

As discussed above, in general, Knudson discloses communications paths preferably have sufficient bandwidth to allow television distribution facility to distribute scheduled television programming, and other video information to user equipment in addition to program data. If desired, program data may be distributed by one or more distribution facilities that are similar to but separate from television distribution facility using different or separate communications paths. Knudson, however, fails to teach or suggest at least the limitation of "personal subscription-on-demand service included in the display produced from the first menu applet,"

as claimed in Applicants' amended claim 14.

Goode fails to bridge the substantial gap between Applicants' invention of claim 14 and Knudson. Goode is devoid of any teaching or suggestion of Applicants' aforementioned claimed limitation. As articulated above, neither Knudson nor Goode alone or combined teach or fairly suggest allowing the subscriber to interface with menu applets.

Therefore, Applicants respectfully submit that amended claim 14 is allowable over Knudson in view of Goode under 35 U.S.C. 103.

Claim 16 recites relevant limitations similar to those recited in claim 14 and, as such, for at least the same reasons discussed above, claim 16 is allowable over Knudson in view of Goode under 35 U.S.C. 103. Specifically, claim 16 recites in part "said video session manager sends a plurality of executable menu applets to said subscriber terminal, said terminal executes each of said menu applets to generate interactive graphical user interface displays through which a subscriber selects a service," which is not disclosed or fairly suggested by Knudson alone or combined with Goode. Therefore, Applicants respectfully submit that amended claim 16 is allowable over Knudson in view of Goode under 35 U.S.C. 103.

Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Knudson in view of Goode under 35 U.S.C. 103.

As such, Applicants respectfully submit that claims 14-18 are allowable over Knudson in view of Goode under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

CONCLUSION

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon J. Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808